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SUBJECT: FEDERAL COURT DISMISSES CHARGES AGAINST IBORI

SUMMARY

¶1. (SBU) A Federal High Court in Asaba absolved former Delta State Governor James Ibori of any wrong-doing on December 17 in the 170-count, money-laundering case brought against him by the Economic and Financial Crimes Commission (EFCC). The EFCC vowed to challenge the ruling at the Federal Court of Appeals. Observers called the decision a "travesty of justice." Although expected, the decision signals a set back in Nigeria's fight against corruption and may give Ibori greater political leverage in the short term. END SUMMARY

CHARGES DISMISSED IN RETRIAL

¶2. (U) On December 17, a Federal High Court in Asaba, Delta State, dismissed all 170-counts of money laundering charges brought against former Delta State Governor James Ibori by the EFCC. Ex-governor Ibori's trial on massive corruption charges began in Kaduna January 2008, but Ibori's lawyer argued that Ibori must be tried in the state (Delta) where his alleged offenses were committed. On December 19, 2008, the Court of Appeal in Kaduna nullified all proceedings to that date and ordered a re-trial in Asaba. The ruling on December 18 in Asaba came after three adjournments called without tangible reasons. The presiding judge, Marcel Awokulehin, stated in his judgment that the EFCC had failed to establish a prima facie case of money laundering and other related charges against the former governor. He chided EFCC prosecutors for failing to substantiate charges with sufficient evidence for a trial of this importance. (NOTE: Ibori is also under investigation for money laundering in the U.K. The trial in Southwark was suspended to await the decision in Asaba. END NOTE.)

NO SURPRISE, EFCC APPEALS

¶3. (U) EFCC spokesman Femi Babafemi claimed the decision came as no surprise to the EFCC. Notably, the press had also reported on preparations for massive victory celebrations that started days before the court judgment, and Post contacts expressed cynicism about the outcome. In a press statement Babafemi announced that EFCC had instructed their lawyers to "immediately file an appeal" against the judgment. The statement continued that the EFCC "will leave no stone

unturned to ensure that the case is taken to a logical conclusion given the enormity of evidence available to the prosecution."

ALLEGATIONS OF MANIPULATION

¶4. (U) Allegations of manipulation have been rife ever since the trial was transferred from Kaduna to Asaba. The Government of Delta State allegedly provided the building to house the high court at precisely the same time that Ibori's lawyers sought to transfer the case. EFCC attorney and civil rights activist Festus Keyamo described the judgment as absurd and unacceptable. Keyamo told PolSpec the judge gave his ruling based on a primary objection by Ibori's lawyers. He alleged that the judge neither called for witnesses nor further evidence before ruling. Chief Edwin Clark, speaking to the press for the Delta State Elders, Leaders, and Stakeholders Forum meeting in Warri, said that the judgment "confirmed the fears of some leaders of Delta State that the Minister of Justice and Attorney-General of the Federation, Mr. Michael Aondoakaa, and Awokulehin had compromised their offices in the determination of the case."

REACTIONS

¶5. (U) According to the EFCC spokesman, "this kind of judgment if not challenged is capable of deepening the menace of corruption." Keyamo stressed the outcome of the trial greatly weakens the EFCC and impacts negatively on the cause of justice in Nigeria. Ijaw leader Clark called the dismissal of charges against Ibori "a dangerous travesty of justice." Ordinary Nigerians expressed to PolOff in Lagos dismay, shame and discouragement at the patent failure of the Nigerian legal system, and worried openly about the impact the decision would have on Ibori's trial in London. Ibori's supporters celebrated in the streets in his home state.

COMMENT

¶6. (SBU) The dismissal of charges against Ibori is a reminder of the degree to which large segments of Nigeria's judiciary remain part of the wider network of interrelated patronage systems. The earlier decision to change the venue from Kaduna to Ibori's home state virtually guaranteed that the decision would come out favorably to the former governor. While the judgment did not come as a surprise, it signals a major set-back in the fight against corruption in Nigeria. Ibori's victory in Asaba may also strengthen his hand in Abuja, enabling him to play a more aggressive role in power-brokering inside the ruling People's Democratic Party (PDP) at a particularly delicate time. END COMMENT.

¶7. (U) ConGen Lagos coordinated this cable with Embassy Abuja.
BLAIR